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19 *Attorneys for Plaintiff /Counter-Defendant*  
20 *Switch, Ltd.*

21  
22 **UNITED STATES DISTRICT COURT**  
23 **DISTRICT OF NEVADA**

24 SWITCH, LTD., a Nevada corporation,

25 Plaintiff,

26 v.

27 UPTIME INSTITUTE, LLC, a Delaware  
limited liability company; and UPTIME  
INSTITUTE PROFESSIONAL  
SERVICES, LLC, a Delaware limited  
liability company,

Defendants.

Case No.: 2:19-cv-00631-GMN-NJK

**ORDER ON**

**PLAINTIFF'S MOTION FOR  
EXTENSION OF TIME TO FILE  
RESPONSES TO DEFENDANTS'  
MOTION FOR PROTECTIVE  
ORDER [DKT. #45] (THIRD  
REQUEST) AND DEFENDANTS'  
MOTION TO EXCLUDE  
PLAINTIFF'S INSIDE COUNSEL  
SAMUEL CASTOR FROM TAKING  
AND DEFENDING DEPOSITIONS  
[DKT. #46] (SECOND REQUEST)**

Plaintiff Switch, Ltd. ("Switch"), by and through its undersigned counsel, hereby  
files its Motion for Extension of Time to File Responsive Pleadings to Defendants' Motion  
for Protective Order [Dkt. #45] (Third Request) and Defendants' Motion to Exclude  
Plaintiff's Inside Counsel Samuel Castor From Taking and Defending Depositions [Dkt.

1 #46] (Second Request) (“Motion”).

2 This Motion is brought under Fed.R.Civ.P. 6(b) and is supported by the  
3 Declaration of Samuel Castor attached hereto as **Exhibit 1**, and the following  
4 Memorandum of Points and Authorities.

5 **MEMORANDUM OF POINTS AND AUTHORITIES**

6 **I. BACKGROUND**

7 Defendants filed a Motion for Protective Order on February 14, 2020, at 10:45 p.m.  
8 PST [Dkt. #45]. On February 18, 2020, Plaintiff filed a Motion to Extend Time for Plaintiff  
9 to File Responsive Pleading [Dkt. #47] with the court. The Court entered an Order on  
10 February 19 [Dkt. #48], granting the motion and making Plaintiff’s responsive pleading  
11 due on February 24, 2020. Plaintiff agreed to the requested extension for the reply brief as  
12 well, which extended the deadline for the reply until March 2, 2020. Thereafter, the parties  
13 began settlement discussions, and in an effort to focus on those negotiations, stipulated on  
14 February 24, 2020 to an extension of eighteen (18) days, and the Court ordered the  
15 extension on February 26, 2020 [Dkt. #52], permitting Plaintiff to file its Opposition on  
16 March 13, 2020, and Defendants to file their Reply on March 20, 2020.

17 In addition to the Motion for Protective Order, on February 14, 2020, Defendants  
18 filed a Motion to Exclude. The deadline for Plaintiff to file a responsive pleading was  
19 February 28, 2020. Pursuant to LR 7-2(b), Defendants’ reply was due March 6, 2020.  
20 Given the parties efforts to resolve this matter, the parties further stipulated to an extension  
21 of eighteen (18) days, and the Court ordered the extension on February 26, 2020 [Dkt. #52],  
22 permitting Plaintiff to file its Opposition on March 17, 2020, and Defendants to file their  
23 Reply on March 24, 2020.

24 Also requested within the Court’s Order on February 26, 2020 [Dkt. #52], the  
25 deadline for Defendants to file an answer or otherwise respond to Plaintiff’s Second  
26 Amended Complaint was extended from March 5, 2020 to March 23, 2020.

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1 The parties are making progress in their settlement discussions, are in the process  
2 of preparing and negotiating settlement documents, and as such, Plaintiff sought an  
3 extension from Defendants of an additional seven (7) days within which to finalize those  
4 negotiations and documents to resolve this case. Additionally, a medical emergency and  
5 logistical complications due to the global COVID 19 pandemic have delayed the parties'  
6 resolution.

7 As such, on March 13, 2020, at 9:14 AM, Plaintiff reached out to Defendants'  
8 counsel to seek an extension of seven (7) days allowing the parties to finalize settlement  
9 documents without the need for further motion practice. A second email was sent to  
10 Defendants' counsel at 9:41 AM explaining a medical emergency. At 10:51 AM, Plaintiff  
11 forwarded a proposed Stipulation to extend the deadlines to Defendants' counsel;  
12 however, as has been customary with Defendants' counsel, at 2:45 PM, Plaintiff received  
13 an email with several conditions. Defendant continued to modify the conditions but the  
14 parties were unable to reach an agreement. Given time is of the essence, the fact the parties  
15 are underway in settlement negotiations, a family emergency, and the global pandemic  
16 causing logistical constraints, Plaintiff asks for a few more days with this Motion.

17 To allow the parties to continue meaningful settlement discussions, Plaintiff  
18 respectfully requests an extension of the following deadlines by seven (7) days, as follows:

19 **Defendants' Motion for Protective Order [Dkt. #45]:**

20 Plaintiff's current response deadline: March 13, 2020

21 **Requested response deadline: March 20, 2020**

22 Defendants' current reply deadline: March 20, 2020

23 **Requested reply deadline: March 27, 2020**

24 **Defendants' Motion to Exclude Plaintiffs' Inside Counsel Samuel Castor**  
25 **from Taking and Defending Depositions ("Motion to Exclude") [Dkt. #46]:**

26 Plaintiff's current response deadline: March 17, 2020

27 **Requested response deadline: March 24, 2020**

Defendants' current reply deadline: March 24, 2020

**Requested reply deadline: March 31, 2020**

**Motion to Dismiss Second Amended Complaint:**

Plaintiff's current response deadline: March 23, 2020

**Requested response deadline: March 30, 2020**

**II. LEGAL ARGUMENT**

**A. Good Cause Exists to Grant the Short Extension Per Rule 6(b)(1)(B).**

Rule 6(b) permits the Court to extend the time to file an opposition upon a showing of good cause and excusable neglect. Fed.R.Civ.P. 6(b)(1)(B).

“‘Good cause’ is a *non*-rigorous standard that has been construed broadly across procedural and statutory contexts.” *Id.* citing *Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1259 (9th Cir. 2010) (discussing “good cause” in the context of Fed. R. Civ. P. 6(b)(1)) (emphasis added). It generally involves a case-by-case assessment of whether there is some good reason for the delay or requested extension in the absence of bad faith and prejudice to the non-moving party. *See id.*, at 1109-1110.

Here, good cause exists because Switch is seeking a minimal extension of seven (7) days to allow the parties to continue meaningful settlement discussions and resolve this matter. Good cause also exists, because Plaintiff's counsel is currently undergoing a family emergency and a major pandemic is sweeping the world.

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For the reasons set forth herein, Plaintiff respectfully requests the Court grant its Motion for an extension of seven (7) days to file its oppositions to Defendants' Motions [Dkts. #45 & #46] as well as for Defendants to file their response to Plaintiff's Second Amended Complaint.

**SWITCH, LTD.**

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Dated: March 16, 2020

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